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OFFICE OF PETITIONS

In re Application of
Robert I. Higuchi et al.
Application No. 10/080,503
Filed: February 22, 2002
Attorney Docket No. **18202-018001/1082**

**DECISION ON PETITION
UNDER § 1.183**

This is a decision on the petition, filed November 30, 2006 and supplemented December 26, 2006, under 37 CFR 1.47(a), which is being treated under 37 CFR § 1.183 for acceptance of a supplemental declaration without the inclusion of the signatures of all inventors as required by §§ 37 CFR 1.67 and 1.63.¹

The petition is **GRANTED**.

All of the joint inventors, signed the original declaration for patent filed in this application, pursuant to § 1.63(d). However, joint inventor Thomas R. Caferro lined through the address on the printed declaration and printed his then-current address, but inadvertently failed to initial and date the changes on the declaration. Thus, a substitute declaration was required by the Notice of Allowability mailed August 31, 2006 to correct the defect. All joint inventors except Thompson, Caferro, Cummings and Edwards have executed the supplemental declaration.

Petitioners assert that after diligent search, inventors Caferro and Thompson cannot be located and that by their actions, inventors Cummings and Edwards refuse to execute the declaration. The evidence provided shows that the supplemental declaration was sent to all joint inventors but that the packages sent to Caferro and Thompson were returned by the U.S. Postal Service. Additional efforts although employed to locate Caferro and Thompson were unsuccessful. With respect to joint inventors Cummings and Edwards, proof of delivery is shown but to date, neither has returned an executed supplemental declaration. Additionally, the statements made by the attorney of record Frank J. Miskiel, have been reviewed and found adequate to make sufficient petitioner's showing that waiver of the requirement for inventors Caferro, Thompson,

¹Once an application has received a fully executed oath or declaration and been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration or to provide all information is a waiver of 37 CFR 1.67 and 1.63. See MPEP 603.

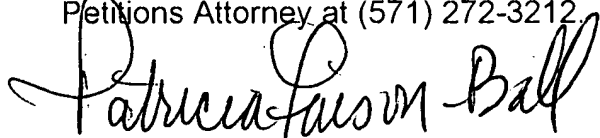
Cummings and Edward's signatures on the supplemental declaration is warranted.

The petition includes the last known addresss of all non-signing inventors and a fee in the amount of \$200.00 for the petition. Petitioners are advised however that the fee for a petition under 37 CFR 1.183 is set at \$400.00. Therein, petitioner's deposit account no. 06-1050 has been charged in the amount of \$200.00 to make up the difference between that paid and that which is due.

The supplemental declaration has been reviewed and found in compliance with §§ 1.67 and 1.63. In view of the foregoing, it is concluded that waiver of the requirement that the supplemental declaration be signed by joint inventors Thompson, Caferro, Cummings and Edwards is appropriate.

This matter is being referred to the Publishing Division.

Telephone inquiries concerning this matter may be directed to the undersigned
Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions